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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,520	07/08/2003	Anthony J. Cesaroni	046946/265228	8355

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EXAMINER

FELTON, AILEEN BAKER

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/615,520

Applicant(s)

CESARONI, ANTHONY J.

Examiner

Aileen Felton

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Reissue Applications*

1. This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

2. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following: No supplemental declaration has been submitted to cover the preliminary amendment and no declaration is present that claims the foreign priority as claimed in the parent in order to retain such priority.

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 22-28 rejected as being based upon a defective reissue under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

3. The Certificate of Correction change to col. 7, line 54 of parent patent needs to be incorporated in the reissue.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-21 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over West et al (5,616,642) in view of Mravic et al (5,399,187) and Davis et al (4,517,898).

West et al discloses a practice bullet that comprises copper and a copolymer of ethylene and vinyl monomer with an acid group such as methacrylic acid. West also discloses that nylon is known for use as the polymer in prior art. However, West does not disclose the particular shape and jacket configuration as claimed.

Mravic et al teaches a frangible practice bullet than has a copper jacket (see claim 8).

Davis et al teaches a conventional bullet shape that has a parabolic tip, a jacket that curls inward towards the tip, a flat opposed end and a copper jacket.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the jacket of Mravic et al since West et al is a frangible practice bullet and Mravic suggests that copper jackets may be used with frangible practice bullets. It would also be obvious to use different known jacket shapes as taught by Davis since Davis shows that there are multiple known jacket configurations. The softening point and adhesion are inherent properties of the bullet as taught and

Art Unit: 1755

disclosed. As to limitations which are considered to be inherent in a reference, note the case law of *In re Ludke*, 169 USPQ 563, *In re Swinehart*, 169 USPQ 226, *In re Fitzgerald*, 205 USPQ 594, *In re Best et al*, 195 USPQ 430, and *In re Brown*, 173 USPQ 685, 688.

6. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over *West et al* (5,616,642) in view of *Mravic et al* (5,399,187).

*West et al* discloses a practice bullet that comprises copper and a copolymer of ethylene and vinyl monomer with an acid group such as methacrylic acid. *West* also discloses that nylon is known for use as the polymer in prior art. However, *West* does not disclose the particular shape and jacket configuration as claimed.

*Mravic et al* teaches a frangible practice bullet than has a copper jacket (see claim 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the jacket of *Mravic et al* since *West et al* is a frangible practice bullet and *Mravic* suggests that copper jackets may be used with frangible practice bullets. The softening point and adhesion are inherent properties of the bullet as taught and disclosed. As to limitations which are considered to be inherent in a reference, note the case law of *In re Ludke*, 169 USPQ 563, *In re Swinehart*, 169 USPQ 226, *In re Fitzgerald*, 205 USPQ 594, *In re Best et al*, 195 USPQ 430, and *In re Brown*, 173 USPQ 685, 688.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aileen Felton whose telephone number is 571.272.6875. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571.272.1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Aileen Felton  
Primary Examiner